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A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

WASHINGTON, D.C. OFFICE
fifth floor
flour mill building
1000 potomac street nw
washington, d.c. 20007-3501
TEL 202 965 7880 FAX 202 965 1729

OTHER OFFICES
beijing, china
new york, new york
portland, oregon
seattle, washington
GSBLAW.COM

Please reply to JOHN CRIGLER
jcrigler@gsblaw.com
DIRECT DIAL: (202) 298-2521

April 28, 2008

File No. 21983-00100-63

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

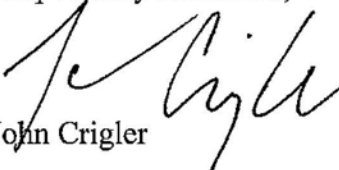
Re: MB Docket No. 04-233

Dear Ms. Dortch:

Transmitted herewith, on behalf of Eastern Region Public Media, are its Comments with respect to the above-referenced rule making proceeding.

If there are any questions concerning this submission, please contact the undersigned directly.

Respectfully submitted,



John Crigler

JC:cll
Enclosure

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Broadcast Localism)	MB Docket No. 04-233
)	
)	

To: The Commission

COMMENTS OF EASTERN REGION PUBLIC MEDIA

Eastern Region Public Media ("ERPM") hereby submits comments in response to the above-captioned Notice of Proposed Rule Making ("NPRM") on broadcast localism.

ERPM is a member-based organization comprised of more than seventy public radio stations located from Maine to Florida and from the Atlantic Ocean to the Mississippi River. This organization was formed in 2006 by the merger of two previously existing regional organizations, Eastern Public Radio and Southern Public Radio. Through its mission to advance public media, ERPM is dedicated to enhancing and improving the ability of its member stations to serve their listeners and communities. As a diverse organization, ERPM plays a key leadership role that supports listener and community service among its member stations. ERPM members pride themselves on their relationship to the communities they serve. No broadcast stations are more dedicated to the principles of localism and public service than the public radio stations who are members of ERPM.

For the reasons outlined below, ERPM asks that the Commission exempt public radio stations from the new “localism” regulations proposed in the NPRM. Alternatively, ERPM asks that the Commission tailor any new localism rules to public stations, or grant waivers from these rules when “good cause” is shown.

The proposals of greatest concern to ERPM are the proposals to:

1. Revise the main studio rule to require all stations to have a main studio in its “community of license” and to staff the station whenever programming is broadcast.
2. Require all stations to have a “permanent” Community Advisory Board created pursuant to rules the FCC will prescribe; and
3. Require all stations to prepare detailed enhanced disclosure forms that report non-entertainment programs.

I. Main Studio Requirements.

The current main studio rule, adopted in 1998, requires a broadcast station to have a main studio in its community of license, within 25 miles of its community of license, or within the principal community contour of any station licensed to its community of license. In adopting the rule, the Commission decided not to grant a blanket exemption for public stations, but to continue its longstanding policy of waiving main studio requirements for public radio stations, based upon a showing of “good cause.”

Encouraged by Commission policy, many ERPM members have constructed and now operate “satellite” stations that provide service to areas that could not support the capital or operating costs needed to construct and staff a main studio. An abrupt reversal of Commission policy would force public stations to curtail or terminate the services these stations provide. Less service necessarily means less local service. Accordingly, ERPM

asks the Commission to grandfather existing main studio waivers and to continue to grant such waivers to public stations that can demonstrate a waiver is warranted.

II. Community Advisory Boards.

ERPM members who receive funds from the Corporation for Public Broadcasting (“CPB”) are subject to requirements that they establish, and consult with, advisory boards that are “reasonably representative” of the communities they serve.¹ Requiring these stations to create a second or different Community Advisory Board would be unnecessarily burdensome. At a minimum, the Commission should exempt all stations subject to CPB advisory board requirements from similar FCC requirements.

ERPM, believes, however, that a general exemption for all public stations is warranted. When the FCC eliminated ascertainment requirements for public stations in 1984, it based its decision on a number of factors, including the fact that stations dependent on contributions from their listeners necessarily cultivated an extremely close relationship with their local audiences. That fundamental economic principle remains as true today as it was in 1984.

III. Enhanced Disclosure.

In eliminating formal ascertainment requirements, the Commission noted that requirements designed to induce stations to broadcast certain types of programs impinge on First Amendment rights and potentially stifle “the creativity and innovative potential” of NCE stations.² These costs far outweigh the elusive benefits of requiring public stations to provide detailed reporting of virtually every non-entertainment program they

¹ 47 C.F.R. § 396(k)(8)(A).


² *Revision of Program Policies and Reporting Requirements Related to Public Broadcasting Licensees*, 56 RR2d 1157, 98 FCC 2d 746 (1984).

broadcast. Public stations use their limited resources to return to their listeners a very high return on their contributions. To divert those resources to administrative rather than programming functions would be contrary to the Commission's primary goal of serving the interests of local broadcast audiences.

Accordingly, while ERPM applauds the Commission's efforts to encourage interaction between the public and their local stations and to improve the quality of broadcast programming, ERPM does not believe that adoption of the proposals advanced by the NPRM with respect to public stations will achieve those goals.

Respectfully submitted,

EASTERN REGION PUBLIC MEDIA



John Crigler
Its Attorney

GARVEY SCHUBERT BARER
Fifth Floor
1000 Potomac Street, N.W.
Washington, DC 20007
202/965-7880

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